

12. ATTACHMENT B

SOFTWARE LICENSE AGREEMENT

This Agreement, dated as of _____, 19____ by and between EmergiTech, Inc., an Ohio corporation with its principal office at 6434 E. Main Street, Reynoldsburg, Ohio 43068 ("Licensor") and The Wabash County ETSB with its principal offices at 120 E. 4th Street, Mt. Carmel, Illinois 62863 (hereinafter referred to as "Licensee" or "User").

Whereas, Licensor is the owner of or has the right to sell and license the Software System (as defined below); and

Whereas, Licensee wishes to obtain from Licensor a non-exclusive license to use the Software System as set forth in this agreement.

WITNESSETH: _____

The parties hereto agree to the following:

1. DEFINITIONS

1.1 The term "Software System" means the proprietary computer software programs ("Software") and, guides, manuals and other forms of documentation ("Documentation"). In addition, the term "Software" shall include any related Program Fixes, Program Modifications or Program Upgrades which might be provided by Licensor pursuant to any Systems Support Agreement with Licensee.

1.2 The term "Use" means (a) entering into and/or storing in a machine any portion of the Software; (b) transmitting any portion of the Software to a machine for processing; (c) compiling, executing, translating or interpreting any code or machine instructions contained in the Software; (d) displaying any of the Software in connection with the processing of such code or machine instructions; and/or (e) use of any Documentation in conjunction with the Software.

1.3 The term "Agency" means the specific Public Safety agency or agencies, identified by name in Exhibit 'A'. In the event that no Agencies are specified in Exhibit 'A', Agency shall mean Licensee.

1.4 The term "Designated Computer System" means the hardware owned or leased by the Licensee and operated by Licensee. The Designated Computer System must be approved by Licensor.

2. SOFTWARE LICENSE

2.1 Subject to the termination provisions set forth below, Licensor hereby grants to The Wabash County ETSB, Licensee, for the sole use of the Agency, a perpetual, non-exclusive license to use the Software System, subject to the terms and conditions in this Agreement.

2.2 The Software System licensed to Licensee under the Agreement will be in object code form only.

2.3 No rights are granted hereunder to use any Licensed Products for which any uncontested required payment has not been received by Licensor.

2.4 With respect to the Software System, the Licensee agrees to accept responsibility for use of the software to achieve the Licensee's intended results.

3. TITLE AND CONFIDENTIALITY

3.1 The Software System, whether the original or any copies thereof, is and will remain the valuable property of Licensor. Licensee understands and acknowledges that the Software System is the intellectual property of Licensor containing trade secrets developed by Licensor.

3.2 Licensee will observe complete confidentiality with regard to all aspects of the Software System and will not disclose or otherwise permit any other person any manner of access to the Software System except to employees of Licensee in the course of their employment who will agree in writing to be bound by provisions of this Section 3. This non-disclosure condition will survive the termination of the Agreement.

3.3 The Licensee shall NOT, without prior written consent of Licensor in each instance, Use the Software System or permit the Software System to be used (directly or indirectly):

- (a) other than solely for User's internal business purposes;
- (b) by a number of concurrent users in excess of the user count listed in Exhibit A for each software module;
- (c) for the processing of data for any non-licensed party;
- (d) at a location other than that specified above in this Agreement;
- (e) by an entity other than Licensee;
- (f) by or in support of any agency, municipality, public safety service provider or jurisdiction other than that which is defined as the Agency; or
- (g) other than solely on the Designated Computer System.

3.4 Licensee shall not knowingly use the Software System, directly or indirectly, in a manner contrary to the Export Administration Regulations issued by the U.S. Department of Commerce. Licensor will bear no liability for such acts.

3.5 Licensee shall notify Licensor promptly of the circumstances surrounding any unauthorized possession, use of knowledge of any part of the Software System.

3.6 Licensee shall not undertake to copyright, trademark or apply for patent or other proprietary grant of right with respect to the Software System.

3.7 Nothing in this Agreement grants to Licensee the right to sell, lease, sublease or otherwise transfer or dispose of the Software System in whole or in part.

3.8 Licensee acknowledges that the breach by Licensee of this Section 3 will give rise to irreparable injury to Licensor, that the remedy at law for such breach will be inadequate and that damages resulting from such breach are not readily susceptible to being measured in monetary terms. Therefore, it is acknowledged that upon adequate proof of Licensee's violation of any provision of the Section 3, Licensor will be entitled to immediate injunctive relief and a temporary order restraining any threatened or future breach of this Section 3. Nothing in this paragraph will be deemed to limit Licensor's remedy at law or in equity for any breach by Licensee of any provision of this Section.

4. ADDITIONAL SOFTWARE

Unless otherwise set forth in this Agreement, the conditions of the License Agreement apply solely to the Software System. Additional Software, other than the Software System, purchased from a third party is not bound under the terms and conditions of this agreement.

5. LIMITED USE

This license is granted solely for the Use and benefit of the Agency. Use of the Software System by or in support of any other agency is prohibited.

6. PERFORMANCE BY LICENSOR

6.1 Licensor shall deliver the then current version of the Software System (in the form of machine-readable object code and certain human-readable documentation) to Licensee within thirty (30) days after the receipt of the payments designated in Attachment E, Payment Terms. Licensor shall give Licensee no less than five (5) days prior notice of the actual date of delivery of the Software System. Licensor shall not be liable to Licensee if a delivery delay is due to causes beyond its control. In such event, the time for performance hereunder shall be extended by the period of any such delay.

6.2 Licensor shall provide installation support and training, in accordance with the *Statement of Work* or a separate professional services agreement.

7. COPIES

Licensee has the right to only make copies of the Software System for internal back-up and security purposes.

8. TAXES – LOCAL GOVERNMENT – TAX EXEMPT

In addition to the Licensee Fee, Licensee will pay to Licensor any sales, use excise, property or other federal, state, local or foreign taxes, duties tariffs, or other assessments, only to the extent that payment of such taxes are required by State or Federal laws (except if based on Licensor's net income) in connection with the license granted under or the transaction contemplated by this Agreement.

9. CHARGES AND PAYMENT

9.1 For each copy of the Software System delivered to or Used by Licensee, licensee shall pay Licensor the charges specified for such Software System in Attachment E of the Statement of Work.

9.2 Licensee agrees to pay and shall be invoiced in accordance with the Payment Terms set forth in Attachment E of the Statement of Work, upon the execution of the Agreement.

9.3 Licensee shall also pay amounts equal to any and all taxes, duties, or other amounts, however designated, which are levied or based upon such charges, or upon this Agreement, or the Software System or any Use thereof, or upon services rendered, or upon storage media storing the Software.

9.4 Licensee shall pay Licensor the charges for all services and related travel expenses that are specified in the Statement of Work. Licensee will be invoiced on a monthly basis for those services provided and expenses incurred in the preceding month. Payment will be due thirty (30) days subsequent to Licensee's receipt of invoice.

9.5 Licensee shall pay invoices within thirty (30) days of the date of the invoice. Licensee shall, in addition, pay interest at the rate of 18% per annum on any invoice amounts which are not paid within such thirty (30) day period.

10. WARRANTY

10.1 For a period of thirty (30) days after Licensor's installation of the Software as provided hereunder, Licensor will use its reasonable effort to cause

the Software to function in all material respects. Such efforts shall consist of providing Licensee with telephone consultation, upon request by Licensee in connection with its use and operation of or problems with the Software System. Such consultation will not cover any complete training or retraining of Licensee's personnel, but will entitle Licensee to consultation for its already trained personnel respecting the use and operation of, or problems with the Software System.

10.2 Such services so provided will also include Licensor's reasonable efforts to correct any defects in the Software System or making additions, modifications or adjustments that are necessary, in Licensor's reasonable judgment, to put the Software System in all material respects in operational order. Such services and any required warranty service pursuant to the Section 10 will be performed at Licensor's sole option by telephonic communication; via modem from Licensor's facility; by repairing or replacing the disks containing the Software; or by Licensor at the Site of Licensee.

10.3 Licensor warrants that the licensed software, when used in accordance with the appropriate product documentation, will be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from the twentieth and twenty-first centuries and the years 1999 and 2000, including leap year calculations.

10.4 **EXCEPT FOR THE SPECIFIC WARRANTIES SET FORTH ABOVE, THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, MADE TO THE LICENSEE HEREUNDER INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR USE OR PURPOSE, OR WARRANTIES OF MERCHANTABILITY. IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE REMEDIES SET FORTH IN THIS PARAGRAPH 10 ARE THE SOLE REMEDIES AVAILABLE TO LICENSEE IN THE EVENT THE SOFTWARE DOES NOT PERFORM IN ACCORDANCE WITH THE SOFTWARE SPECIFICATIONS DURING THE WARRANTY PERIOD SPECIFIED HEREIN. IF LICENSEE HAS ELECTED TO BE RESPONSIBLE FOR THE INSTALLATION, THEN THE SOFTWARE SYSTEM SHALL BE SOLD AS IS, WHERE IS.**

11. MAINTENANCE AND SUPPORT

After the expiration of the thirty (30) day warranty period described in paragraph 10.1 above, Licensee may request Licensor to provide Software maintenance, support and consultation services to Licensee. Such additional support will be in accordance with a Software Support Plan purchased from Licensor which may be entered into simultaneously with the execution by the parties of the Agreement or thereafter upon Licensor's approval.

12. UPDATES AND ENHANCEMENTS

Licensor may, from time to time, provide to Licensee notice of any enhancements and/or upgrades developed to the Software System and will offer such enhancements and upgrades to Licensee at Licensor's standard rates then in effect, or in accordance with the terms and conditions of the Software Support Plan purchased from Licensor.

13. MODIFICATIONS

Licensee agrees that if Licensee, or a representative of Licensee, modifies the Software in any manner, Licensee will not be entitled to (a) the warranty described in Section 10 of the Agreement, which warranty shall be null and void; or (b) maintenance and support, as described herein.

14. LIMITATION OF LIABILITY

THE LIABILITY OF LICENSOR TO LICENSEE FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT IS LIMITED TO THE LICENSE FEE PAID TO LICENSOR BY LICENSEE HEREUNDER.

15. INDEMNIFICATION

15.1 Subject to Section 15 of this Agreement, Licensor will indemnify and hold harmless Licensee against any cost, fees and damages arising out of, or related to any claim that Licensee's use or possession of the Software or the license granted hereunder infringes or violates the patent, copyright, trade secret or other proprietary right of any third party.

15.2 In the event that Licensee's use of the Software is permanently enjoined, Licensor will, at its option, (a) modify the Software so that it becomes non-infringing; (b) replace the Software with non-infringing software that serves the same purpose and function as the claimed infringing Software; (c) refund the License Fee to Licensee and terminate the License; provided, however, that there shall be deducted from the License Fee an amount representing the reasonable value for the use of the Software based upon a five (5) year, straight line amortization schedule. Upon such termination, Licensee shall return all copies of the Software System to Licensor.

16. TERMINATION

This Agreement and the license granted hereunder may be terminated by Licensor If Licensee defaults in the performance of any of its obligations hereunder and such default continues for thirty (30) days after receipt of written notice from the Licensor; provided, however, that Licensor shall have the right to immediately terminate this Agreement and such license in the event of a breach

by Licensee of the provisions of Section 3 of this Agreement. Upon any termination of the Licensee, Licensee shall return all copies of the Software System to Licensor.

17. LICENSOR'S PROPRIETARY NOTICES

Licensee agrees that any copies of the Software documentation that it makes will bear all copyright, trademark, and other proprietary notices included thereon by Licensor.

18. ASSIGNMENT

Neither this Agreement nor the license may be assigned (by operation of law or otherwise), sub-licensed or otherwise transferred in any manner to Licensee without the prior written consent of Licensor. This Agreement will be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

19. AMENDMENT

This Agreement may not be altered, amended, or modified except in writing signed by each of the parties. A waiver of the right to enforce any right or obligation under this Agreement will not be construed as a waiver of any subsequent right to enforce such right or obligation.

20. INVALIDITY

In the event that any provision of the agreement is found to be invalid or unenforceable for any reason, such provision shall be deemed to be severable and shall not invalidate any other provision of this Agreement and this Agreement, less such invalid or unenforceable provision, will remain in full force and effect, as modified.

21. ENTIRE AGREEMENT

This Agreement contains the entire Agreement among the parties and supersedes all proposals, oral or written, and other communications between the parties.

22. NOTICE

Any notice or other communications required hereunder shall be given in writing by certified or registered mail, return receipt requested, or by personal delivery to the addresses set forth on the first page of this Agreement or to such other addresses as may be provided by the parties in writing. Notice shall be deemed

given upon receipt, if personally delivered, or three (3) days after mailing, if by certified or registered mail.

23. HEADINGS

The paragraph headings in this Agreement are used for reference purposes only and shall not be deemed to be a part of this Agreement nor shall they have any effect upon the interpretation or meaning of any provision hereof.

24. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Illinois and any legal proceedings relating to the subject matter of this Agreement will be maintained in courts sitting in the State of Illinois and the parties consent and agree that such jurisdiction and venue for such proceedings shall lie exclusively with such courts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their Duly authorized representatives as of the date first above written.

ACCEPTED BY:

("Licensor")

EMERGITECH, INC.

By: *Mark Kelen*

Title: *Pres.*

Date: *July 30, 1999*

ACCEPTED BY:

("Licensee")

WABASH COUNTY ETSB

By: *Jimmy J. Smith*

Title: *VICE CHAIRMAN*

Date: *August 4, 1999*

EXHIBIT A

- Agency is defined as Wabash County ETSB.

13. ATTACHMENT C

LICENSED SOFTWARE MAINTENANCE AGREEMENT

This Agreement dated as of _____, 19__, by and between EmergiTech, Inc., an Ohio corporation with its principal office at 6434 E. Main Street, Reynoldsburg, Ohio 43068 ("Licensor"), and The Wabash County ETSB with its principal offices at 120 E. 4th Street, Mt. Carmel, Illinois 62863 (hereinafter referred to as "Licensee").

Whereas, Licensor has granted Licensee a non-exclusive license to certain software (the "Licensed Software"), pursuant to and subject to the terms of that certain Software License Agreement (the "Software License Agreement") between Licensor and Licensee of even date herewith; and

Whereas, Licensee desires that Licensor perform software maintenance and support services pursuant to the following terms and conditions,

WITNESSETH:

The parties hereto agree that in consideration of the Software Maintenance Fee hereinafter described, that during the term hereof Licensor shall perform and furnish the following services. All capitalized terms not otherwise defined herein are used as defined in the Software License Agreement.

1. MAINTENANCE SERVICE

Licensor shall provide such maintenance services as may be necessary and reasonable to cause the Licensed Software to conform to and perform in all material respects in accordance with the applicable Software Specifications. For so long as Licensor is obligated to maintain and support the Licensed Software under the Software License Agreement or this Agreement, Licensor shall respond (by telephone) to customer's request for assistance within four (4) working hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) after such request is made. Additionally, Licensor shall use its best efforts to cause the Licensed Software to operate substantially in accordance with its specifications. In no event shall Licensor be responsible for maintaining Licensee modified portions of the Licensed Software or for maintaining portions of the Licensed Software affected by Licensee modified portions of the Licensed Software. However, at Licensee's requests, Licensor may provide, at its then prevailing rates, assistance in correcting defects traceable to Licensee's errors in effecting software modifications.

2. APPLICATIONS SOFTWARE ENHANCEMENTS

2.1 Licensor may from time to time release to its customers and licensees, application software product enhancements, in the form of modifications or supplements to existing Licensor application software, which would provide valuable new features or improvements to the Licensed Software. As part of the support services to be provided hereunder, all such applicable product enhancements to the Licensed Software shall be offered to Licensee at no additional charge, and thereafter shall be considered Licensed

Software licensed to Licensee pursuant to and subject to the terms and conditions of the Software License Agreement, and Licensor shall install all such product enhancements, and provide general user assistance by telephone in connections with such product enhancements. At Licensee's request, Licensor may also provide, at its then prevailing rates, on-site user training or modifications to such product enhancements.

- 2.2 In the event that custom modifications were made to the base application software at the specific request of the Licensee, and that enhancements become available which involve these customized areas of the base software, these software enhancements will also be provided and, at Licensee's discretion, will be installed by Licensor without additional charge. However, Licensor is not responsible if the Licensee's data files require conversion as a result of these enhancements to customized software. Licensor agrees to perform file conversions at its then prevailing rates.

3. NOTIFICATIONS AND UPDATES

Licensor may from time to time produce notifications, updates, or corrections of existing problems relating to its licensed software. As part of the support services to be provided hereunder, Licensor will make all notifications, updates or corrections applicable to the Licensed Software available to Licensee at no additional charge.

4. SUPPORT AND SYSTEM CONSULTING: ADDITIONAL SERVICES

- 4.1 As part of the support services to be provided hereunder, Licensor will furnish at no additional charge general recommendations at such times as it deems appropriate on operational efficiency and use of the Licensed Software, and design concepts regarding new applications thereof. At Licensee's request, Licensor may also provide, at its then prevailing rates, other consulting services, or technical, operational or other assistance to Licensee.
- 4.2 Licensee hereby elects to receive, and Licensor agrees to provide, the additional services set forth on Exhibit "A" hereto at the rates as set forth thereon or if no rates are set forth on Exhibit "A", then such services will be provided at Licensee's prevailing rates at the time such services are provided to Licensee.

5. TERM

Provided that all fees due hereunder or due under the Software License Agreement have been fully paid, this agreement shall continue, unless terminated as provided hereunder, for a period of one (1) year, followed by successive terms of one (1) year each. This Agreement may be terminated or performance hereunder suspended by : (a) Licensee upon ninety (90) days advance written notice of intent to terminate this Agreement; (b) Licensor, in the event of any termination of the Software License Agreement, or any failure of Licensee to pay any amounts due hereunder or due under any other agreement between the parties hereto subject to Licensee's right to cure said non-payment within five (5) days after written notice; (c) Licensee or Licensor, in the event of any material breach by the other which is not cured by the other within thirty (30) days of written notice thereof; or (d) Licensor, upon ninety (90) days advance written notice of intent to terminate.

6. CHARGES AND PAYMENT

- 6.1 The services described in this Agreement will be provided by Licensor in consideration of Software Maintenance Fees ("Software Maintenance Fees"), in accordance with Section 6.2, except for: (a) those services not part of the support services hereunder which are described as being chargeable at Licensor's then prevailing rates and such additional services as are set forth on Exhibit "A" hereto, and (b) actual expenses incurred by Licensor personnel for travel, lodging and meals required in the course of rendering on-site services at Licensee's premises. Fees and expenses outside of the Software Maintenance Fees shall be billed monthly as incurred, and shall be due and payable by Licensee within thirty (30) days of receipt of invoice.
- 6.2 The total Software Maintenance Fees for the initial term of this Agreement shall be the fees as set forth on Exhibit "B" hereto for the specific maintenance plan selected by Licensee, and Licensor agrees to provide the services at the fees applicable as set forth on Exhibit "B". Effective on the commencement of any renewal term hereof, the annual Software Maintenance Fees may be subject to an increase.
- 6.3 The Software Maintenance Fees shall be due and payable annually, in advance, upon the commencement of the term hereof, and each renewal term thereafter. Licensee shall not be entitled to rebates or refunds on the Software Maintenance Fee for the used portion of any term, in the event of any termination of this Agreement, except a termination by Licensor pursuant to Section 5(d) hereof.
- 6.4 In the event of non-payment in excess of 60 days from the due date of invoiced maintenance fees, Licensor has the express right to suspend all maintenance support for Licensee until full payment has been received. Furthermore, once suspended for this reason, Licensor is not obligated to reinstate the agreement. If Licensee believes that Licensor is not fulfilling their terms of this agreement, Licensee is required to communicate all facts in writing, by sending via Certified Mail to: Operations Manager, EmergiTech, Inc., 6434 E. Main Street, Reynoldsburg, OH 43068. Licensee is not justified in withholding payment unless Licensor fails to respond to these claims within 15 days of receiving such correspondence.

7. LIMITATION OF LIABILITY

- 7.1 Except as set forth herein or in the Software License Agreement, Licensor makes no warranties, either express or implied (including, without limitation, any warranties of merchantability or fitness for a particular purpose).
- 7.2 Regardless of cause or the form of action (whether breach of contract or warranty, negligence or other tort, strict liability or otherwise), Licensor's liability to Licensee for any and all damages recoverable pursuant to the terms of this Agreement shall not exceed the amount of the annual Software Maintenance Fees paid by Licensee during the then current one (1) year term or renewal term of this Agreement. In no event shall Licensor be liable for incidental, special or consequential damages, including but not limited to lost profits, lost savings or loss by reason of facility shutdown or non-operation or increased expense of operation, even if Licensor has been advised of the possibility of such damages.

7.3 In the event that Licensee makes, or allows any other individuals not authorized by Licensor to make any modifications to the supported software, such action, at the sole discretion of the Licensor, immediately releases Licensor from all future obligations under this agreement. Furthermore, Licensor recommends that no other software, related or unrelated, be loaded into the operating network or system without first obtaining authorization from the Licensor. Therefore, the loading of any unauthorized software into the same operating network or system may also release Licensor from all future liabilities under this agreement.

8. MISCELLANEOUS

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. This Agreement contains the entire agreement between the parties hereto, and when fully executed by both parties hereto shall be binding upon such parties and their respective successors and/or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ACCEPTED BY:
("Licensor")

ACCEPTED BY:
("Licensee")

EMERGITECH, INC.

WABASH COUNTY ETSB

By: Mark Kaler

By: John J. Sesto

Title: Pres.

Title: VICE CHAIRMAN

Date: July 30, 1999

Date: August 4, 1999

EXHIBIT A
ADDITIONAL SERVICES

None

EXHIBIT "B"

SOFTWARE MAINTENANCE PLANS

Plan A (BASIC PLAN)

- First year Annual Software Maintenance for INTERCad™, INTERBADge™, INTERFire™ is \$7,265.00 paid in advance.
- Telephone support 24 hours a day, 365 days a year for INTERCad and 8:00 A.M.– 5:00 P.M. Monday - Friday for all other ETI software.
- On-site support when deemed necessary by ETI

**** SOFTWARE SUPPORT AGREEMENTS DO NOT INCLUDE SOFTWARE MODIFICATIONS, CONTINUED SUPPORT OF OTHER CUSTOMER FILES, AND REPORTS. ADDITIONAL FEES WILL APPLY.**

14. Attachment D

HARDWARE MAINTENANCE AGREEMENT

This Agreement, dated as of _____, 199_, by and between EMERGITECH, INC. an Ohio corporation with its principal offices at 6434 East Main Street, Reynoldsburg, Ohio 43068 (hereinafter referred to as "ETI") and The Wabash County ETSB with its principal offices at 120 E. 4th Street, Mt. Carmel, Illinois 62863 (hereinafter referred to as "Wabash County ETSB").

WITNESSETH:

The parties hereto agree that in consideration of the Hardware Maintenance Fee hereinafter described, that during the term hereof, ETI shall perform and/or furnish the following services.

1. **MAINTENANCE COVERAGE.** ETI agrees to provide maintenance and repair services on the equipment of the Wabash County ETSB listed in the attached Statement of Work. And made a part hereof (the "Equipment"), in accordance with the type(s) of coverage below and as further described and subject to the provisions set forth herein.

2. **MAINTENANCE SERVICES DEFINITIONS.**

2.1 **REPAIR SERVICES** - Repair services will consist of all services necessary to restore non-operational equipment to operational status and may include, but are not limited to, diagnostic fault isolation module repair or replacement, adjustment and on-line testing. Repair services will be performed by an ETI service technician or authorized representative, either at the client locations premises, specified as "On-Site Service"; or at ETI's or authorized representative's premises, specified as "Carry-In Service", in accordance with the type of coverage indicated in the Attachment E of the Statement of Work.

2.2 **PREVENTIVE MAINTENANCE SERVICES** - Preventive Maintenance Services will consist of those routine maintenance services which will keep the Equipment in proper operating condition. These services will be provided solely at the discretion of ETI and will include such procedures, and performed at intervals, based on ETI's service experience with the Equipment.

2.3 **DISASTER MAINTENANCE** - Disaster Maintenance will include all services enumerated in paragraphs 2.1 and 2.2 above performed in accordance with the provisions of paragraphs 4.2 and 5.3 specified herein. Disaster Maintenance will be provided for products set forth in Attachment E of the Statement of Work.

2.4 **OTHER SERVICES** - Recognizing that the Wabash County ETSB's Equipment needs may vary from time to time or may include special requirements, ETI shall endeavor to perform such other services upon request by the Wabash County ETSB, at a mutually agreed upon cost, if in ETI's judgment, such services are (a) within ETI's capabilities; (b) will not present a labor problem; (c) will not be hazardous; (d) will not infringe or otherwise injure the

rights of any third party; or (e) will not violate any federal, state or local laws, ordinances or regulations

3. **ANNUAL MAINTENANCE FEE.** The Annual Maintenance Fee is found in Attachment E of the Statement of Work and Exhibit A of this agreement.

4. **HOURS OF SERVICE.**

4.1 **MAINTENANCE SERVICES** set forth in paragraphs 2.1, 2.2 and 2.4 above shall generally be available during ETI's normal working hours of 8:30 AM to 5:00 PM, Monday through Friday, excluding holidays recognized by ETI.

4.2 **DISASTER MAINTENANCE** services set forth in paragraph 2.3 above will be available 24 hours per day, seven (7) days a week.

5. **SERVICE RESPONSE.**

5.1 **ON-SITE.** ETI shall endeavor to respond to the Wabash County ETSB's requests for repair service in the most expedient manner possible, but in no event later than the next day after the ETI has received a Wabash County ETSB's request for service.

5.2 **CARRY-IN.** ETI agrees that it will repair Equipment within three normal working days (72 hours) of receipt at ETI's facility.

5.3 **DISASTER MAINTENANCE.** Provided the provisions of paragraph nine (9) have been met, ETI agrees that it will respond to requests of The Wabash County ETSB for service within one (1) hour by telephone and as soon as possible, but within no more than 8 hours, if on-site service is necessary, ETI will provide The Wabash County ETSB with the pager number permitting access to ETI's Service Department during hours outside of those set forth above in paragraph 4.1.

6. **REPLACEMENT PARTS.** ETI will provide replacement parts required to provide maintenance services at no additional charge to The Wabash County ETSB. At ETI's option, replacement parts may be new, repaired, refurbished or reconditioned. All parts removed from Equipment in performing maintenance services will become the property of ETI.

7. **EQUIPMENT INSPECTION.** Prior to ETI's acceptance of the Equipment under this Agreement, all equipment not purchased from ETI and not covered by manufacturer's standard warranty when this agreement is accepted by ETI will be subject to an inspection to determine working condition and acceptability. The Wabash County ETSB will be charged an inspection fee based on the number of units to be inspected and ETI's inspection rates then in effect. If ETI determines that the Equipment is not in acceptable working condition, ETI will provide The Wabash County ETSB with an estimate of the cost of bringing the equipment to acceptable working condition and, upon approval from the Wabash County ETSB, ETI shall perform the necessary services. Estimates provided The Wabash County ETSB will be in accordance with ETI's time and material rates then in effect.

8. SERVICE LIMITATIONS. ETI shall not be obligated under the Agreement to provide maintenance or repair service on Equipment for any of the reasons set forth in subparagraphs (A) through (H) of this paragraph 8. Upon request of The Wabash County ETSB to perform such services, ETI may, at its option, elect to perform such services, at ETI's standard rates then in effect.

A. SOFTWARE FAILURES: Services required due to any defect or failure of software.

B. SITE PREPARATION: Inability to perform installation services due to lack of access to or improper location of telecommunication terminals or power sources.

C. MISUSE OF EQUIPMENT: Services and replacement parts necessitated by The Wabash County ETSB's failure to use the equipment in a normal, ordinary, and routine manner as intended and/or recommended by the Equipment manufacturer, including use of consumable items not technically satisfactory for use with the Equipment.

D. CONSUMABLE ITEMS: Furnishing or replacement of consumable items. Consumable items specifically include operating supplies such as disks, paper, ribbons, and all other items reasonably expected to be expended in the operation of Equipment.

E. CASUALTY LOSS: Except for Disaster Maintenance Coverage, services necessary to repair damage to the Equipment caused by accident, fire, water, lightning, wind, explosion, criminal acts, and or other incident or casualty causing property damage.

F. NON-ETI REPAIR OR MODIFICATION: Services necessary as a result of service, repair or replacement of parts, or attachments, or modification of the Equipment performed by any one other than an authorized ETI technician.

G. OTHER EQUIPMENT: Services with respect to any equipment other than listed in the Equipment Schedule.

H. LINE/POWER FAILURES: Services due to telecommunication or power source failures.

9. DISASTER MAINTENANCE PREREQUISITES. If The Wabash County ETSB selects Disaster Maintenance coverage, The Wabash County ETSB agrees that:

9.1 An uninterrupted Power Source (UPS) approved by ETI will be installed and continually in use on all file servers, workstations, and peripherals covered under Disaster Maintenance.

9.2 A tape back-up unit will be installed and the contents of all file servers will be regularly backed up to tape and said tapes stored away from the client location's sites.

10. PAYMENT OF MAINTENANCE AGREEMENT

10.1 Payment of all invoices will be made directly to ETI within invoice terms.

10.2 In the event of non-payment in excess of 60 days from the due date of invoiced maintenance fees, ETI has the express right to suspend all maintenance support for The Wabash County ETSB until full payment has been received. Furthermore, once suspended for this reason, ETI is not obligated to reinstate the agreement. If The Wabash County ETSB believes that ETI is not fulfilling their terms of this agreement, The Wabash County ETSB is required to communicate all facts in writing, by sending via Certified Mail to: Operations Manager, EmergiTech, 6434 East Main Street, Reynoldsburg, Ohio 43068. The Wabash County ETSB is not justified in withholding payment unless ETI fails to respond to these claims within 15 days of receiving such correspondence.

11. EXCLUSIVE ACCESS TO HARDWARE BY ETI.

11.1 In the event that The Wabash County ETSB makes, or allows any other individuals not authorized by ETI to make any repairs or modifications to the supported hardware, such action, at the sole discretion of the ETI, immediately releases ETI from all future obligations under this agreement.

11.2 Furthermore, ETI recommends that no other software, related or unrelated, be loaded into the operating network or system without first obtaining authorization from ETI. Therefore, the loading of any unauthorized software into the same operating network or system may also release ETI from all future liabilities under this agreement.

12. WARRANTY AND LIMITATION OF LIABILITY. ETI shall exercise all reasonable efforts to perform maintenance and repair services in a good and workmanlike manner. ETI warrants that all replacement parts will be of the same such parts are in good operating condition at the time of replacement. All other warranties including any warranties of merchantability or fitness for purpose, express or implied, are hereby waived and excluded. Under this agreement, ETI shall not be liable for any consequential, incidental, indirect, or special loss or damage incurred by The Wabash County ETSB, including lost profits. During any period of this service contract in which the Wabash County ETSB is in default of any obligation, including but not limited to the payment of any charge incurred by virtue of services rendered or to be rendered, such service contract shall be deemed null and void

13. TERM. Provided that all fees due hereunder have been fully paid, this agreement shall continue for a period of one (1) year. At the conclusion of each term, this agreement will automatically extend an additional term, unless the Wabash County ETSB notifies ETI in writing, 60 days prior to the end of each term, that it does not desire the extension. The Wabash County ETSB will be notified, within 60 days of the end of each term, of any changes in fees for the next term.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ACCEPTED BY:

EMERGITECH, INC.

By: 

Title: Pres.

Date: July 30, 1999

ACCEPTED BY:

WABASH COUNTY ETSB

By: 

Title: VICE CHAIRMAN

Date: August 4, 1999

EXHIBIT "A"

HARDWARE MAINTENANCE PLAN:

All hardware listed in Attachment E

The maintenance coverage shall be twenty-four (24) hours per day, seven (7) days per week including holidays for emergency service interruptions with a four (4) hour response time. The response shall be between 8:00 A.M. and 5:00 P.M. and within twenty-four (24) hours or on the next working day for non-emergency service interruptions.

NOTE: Phone charges for remote diagnostics will be billed as incurred.

Commencement Date _____

Total Yearly Maintenance Charge **\$9,920.00**

Time and Materials

Hardware support and systems analyst software support **not covered** under the maintenance contract but during the contract period will be on a time and materials basis. Labor will be at the rate of \$95.00 per hour portal to portal between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding holidays. The labor rate outside the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding Sundays and holidays, will be \$142.50 per hour portal to portal. The labor rate for Sundays and holidays will be \$190.00 per hour portal to portal.


Senior systems analyst support will be at a cost of \$125.00 per hour portal to portal between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding holidays. Outside these hours, excluding Sundays and holidays, the rate will be \$187.50 per hour portal to portal, and on Sundays and holidays, it will be \$250.00 per hour portal to portal.

Mileage charges will be fifty cents per mile. Parts will be at cost plus 50%.

15.ATTACHMENT E

CHARGES AND PAYMENTS

| <u>ETI Software</u> | <u>Proposed Costs</u> | <u>Total</u> |
|---|-----------------------|-----------------------------|
| INTERCad™ Software Site License | | |
| INTERBADge™ Software Site License | | |
| INTERFire™ Software Site License | | |
| Remote Support Software Packages (6) | | |
| All Hardware Listed on the following pages | | |
| WinFax PRO Client Software Package for Server (1) | | |
| WinFax PRO Client Software Packages (2) | | |
| Freight, Installation and Project Manager | | |
| Training | | |
| Total Hardware and Software | \$ 99,975.00 | |
| 1 st Year Hardware and Software Support | \$ 17,185.00 | |
| Additional 10% for INTERBADge™ | \$ 11,716.00 | |
| SUB-TOTAL | | \$ 128,876.00 |
| <u>Third Party Products</u> | | |
| Computer Aided Addressing System | \$ 11,125.00 | |
| Includes Map Manager Extension | | |
| Three (3) days of training | | |
| One year of telephone support (8-5, M-F, | | |
| Excluding holidays) | | |
| Automatic 9-1-1 map display (two stations) | \$ 11,000.00 | |
| Real Time Differential GPS System (Magellan ProMark 10) | \$ 3,495.00 | |
| Performance Bond | \$ 825.00 | |
| Map Data Set-up (Please see note below) | \$ 6,500.00 | |
| SUB-TOTAL | | \$ 32,945.00 |
| 24-Channel Voice Recorder | \$25,000.00 | |
| VR3242 Dual 5.2 GB DVD-RAM | | |
| DIR911D Digital Instant Recall Unit (2) | | \$ 25,000.00 |
| PROJECT TOTAL | | <u>\$ 186,821.00</u> |

*185,996.⁰⁰ 

Payment Terms

The Wabash County ETSB agrees to pay ETI 50% (\$93,410.50) of the Project Total upon signing of this Statement of Work, 45% (\$84,069.45) upon initial installation of ETI Application Software and Hardware and 5% (\$9,341.05) of Project Total upon acceptance of ETI software and hardware.

Installation of ETI Application Software means that when INTERCad™, INTERBADge™, INTERFire™ is installed on the server and workstation(s) and ETI can show the Project Manager of the Wabash County ETSB that the functionality of the software exists that installation is complete. Any modifications or customization not a part of the Application Software need not be operational for installation to be complete.

Should the County decide to purchase up to five (5) years of maintenance/support paid in advance, ETI will hold the current maintenance/support rate for up to five (5) years or if the County decides to purchase the maintenance/support annually, ETI will limit the increase to 5% a year or the Consumer Price Index rate, whichever is greater.

BUDGETARY PRICE ESTIMATE FOR WABASH COUNTY, ILLINOIS

ENHANCED 9-1-1, INTERCAD, INTERBADGE, INTERFIRE,
AND MAP DISPLAY HARDWARE

| <u>Qty.</u> | <u>Item</u> |
|-------------|---|
| 1 | Proctor ANI-LINK with Two (2) ANI Displays and Four (4) Trunk Cards |
| 1 | Pentium II 450 Network Server with 128 MB RAM, Dual Mirrored 9 GB Ultra-Wide SCSI Hard Drives, Windows NT (10 users), 10/100 Network Interface Card, 32X CD-ROM, Dual Hot Swappable Power Supplies, Seagate Backup Exec 7.2, Segate Backup Open File Manager, M |
| 1 | Pentium II 350 9-1-1 Server with Windows 98, Dual Mirrored 4.3 GB Hard Drives, 64 MB RAM, 3.5" Floppy, 32X SCSI CD-ROM, Dual Hot-Swappable 300 W Power Supplies, 100/10 BT Network Interface Card, and 8-port DB25 Interface Connector |
| 2 | Viewsonic 14" Color Monitor |
| 2 | Pentium II 350 PC 9-1-1/CAD Workstations with Windows 98, 64 MB RAM, 4.3 GB Hard Drive, 10/100 BT Network Interface Card, 3.5" Floppy, 32X CD-ROM, 4 MB Video Card, 16 Bit Sound Card, and 140 W Speaker Set |
| 2 | KDS VS-7 17" Color Monitor |
| 1 | Pentium II 350 PC for Map Development with Windows 98, 64 MB RAM, 4 GB Hard Drive, 10/100 BT Network Interface Card, 3.5" Floppy, 32X SCSI CD-ROM, 4 MB Video Card, 16 Bit Sound Card, 140 W Speaker Set, 8 GB DAT Backup System, Seagate Backup Exec (or equiv |
| 1 | Pentium II 350 PC Map Display Workstation with Windows 98, 64 MB RAM, 4.3 GB Hard Drive, 10/100 BT Network Interface Card, 3.5" Floppy, 32X CD-ROM, 4 MB Video Card, 16 Bit Sound Card, and 140 W Speaker Set |
| 2 | Viewsonic 21" Color Map Display Monitors |
| 1 | Okidata 320 9-1-1 Logging Printer |
| 1 | HP Laserjet Printer |
| 1 | 16-Port 10/100 Auto-Sensing Hub |
| 5 | APC Back-UPS Pro 650 UPS |

- 1 APC SU2200NET UPS
- 2 56K Modems
- 2 A/B Switch
- 1 Surge Protection
- 2 TDD Keyboards
- 1 WinFax PRO Software Package for Server
- 2 WinFax PRO Client Software Packages
- 6 Remote Support Software Packages
- 1 INTERCad Software Site License (includes 9-1-1 software)
- 1 INTERBADge Software Site License
- 1 INTERFIRE Software Site License

Freight, Installation, and Project Management

Training (Please see training note below)

Total Hardware and Software **\$99,975**

First Year Hardware and Software Support **\$17,185**

Total First Year Investment **\$117,160**

Additional 10% for INTERBADge Law Enforcement Records **\$11,716**

New Grand Total for First Year **\$128,876**

NOTE: The hard drives included in the map development station and the map viewing stations assume that the County will not be storing digital orthophotos on the system. If this is not the case, a larger hard drive will be needed at each

Maintenance: EmergiTech offers two maintenance plans. The first plan covers regular business hours (8-5, M-F, excluding holidays). The second plan for emergency support provides coverage 24 hours a day, 365 days a year. The terms of these plans are fur

Training: Training on the EmergiTech software requires a sound understanding of Windows 95/98/NT. If the personnel to be trained are not currently proficient in Windows, EmergiTech strongly recommends that they receive Windows training from a local third

The training quoted assumes that all training will take place at EmergiTech's training facility in Reynoldsburg, Ohio. In addition to the cost quoted, the Customer will be responsible for any expenses incurred by customer personnel. Class sizes will be

INTERCad, 9-1-1, and INTERBADge Administrator - 3 days

INTERCad and 9-1-1 User - 2 days

INTERBADge User - 3 days

INTERFIRE Administrator - 1 day

INTERFIRE User - 3 days

Ad-hoc Training - EmergiTech will provide six (6) days of on-site ad-hoc training that can be used at the time of cutover or as needed for additional training.

As an option, EmergiTech can provide the initial administrator and user classes on-site provided the customer has an appropriate classroom training facility with multiple workstations. The cost for on-site training will be an additional \$200 per day plus

Supplemental training, refresher courses, etc., will be provided at \$1,200 per day plus expenses for on-site training or \$1,000 per day at EmergiTech's location.

NOTE: This budgetary estimate is valid until June 9, 1999.

24-CHANNEL VOICE RECORDER

EmergiTech has obtained quotes on an Eventide VR320 24-Channel Recorder. This quote also includes two (2) Eventide DIR911 Instant Recall Recorders. EmergiTech will provide this system to the County at a cost of \$25,000. Shown below are the components included with this system.

Eventide System

| <u>Qty.</u> | <u>Item</u> |
|--------------------|--|
| 1 | VR3242 24 Channel Dual 5.2GB DVD-RAM Rewritable CD Drives with 275 Hour Internal Hard Disk Digital Voice Logging Recorder/Reproducer |
| 1 | Smart Label Printer with Cable |
| 1 | PC-Remote Kit with Under Monitor Speaker |
| | 421129 Quick Install Kits for VR3242 |
| 2 | DIR 911 Digital Instant Recall Recorder with 64 Minutes of Storage and IntelliClear Speed Control for 19 inch Rack Mount |

NOTE: If after selecting a system, the county wishes to vary the configuration from that specified above, there may be a resulting change in the price.

Both recording systems include a one year factory warranty, delivery, installation, and training. Please note that training for the Dynamic Instruments system will take place on-site. Training for the Eventide system will take place at their headquarters in Little Ferry, New Jersey. Travel costs and any other expenses incurred by county personnel for the training have not been included in the price.

PRICING FOR WABASH COUNTY MAPPING SYSTEM

Listed below is EmergiTech's pricing for the following items from Addendum #1 of the Agreement between Wabash County and Miller Management.

| | |
|--|------------------------|
| Computer Aided Addressing System | \$11,125 |
| Includes Map Manager Extension | |
| Three (3) days of training | |
| One year of telephone support (8-5, M-F, excluding holidays) | |
| Automatic 9-1-1 map display (two stations) | 11,000 |
| Real Time Differential GPS System | 3,495 |
| Performance Bond | <u>825</u> |
| <i>Subtotal</i> | <u>\$26,445</u> |
| Map Data Set-up (Please see note below) | <u>6,500</u> |
| <i>Total</i> | <u>\$32,945</u> |

Map Data Set-up: The map data set-up is required to make the Miller Management mapping data work with the EmergiTech system and would have been required even if Miller Management had performed all services on their quote. It does not include any map data collection; therefore, the information displayed on the map is limited to the information provided to EmergiTech by the County.

GPS Equipment: If the County does not already have GPS equipment to facilitate maintaining the map data, the County may want to consider acquiring this additional equipment. Depending on the County's needs, the price for such equipment could range between \$5,000 and \$25,000.

Support: Software support for the map display software will be provided during regular business hours via telephone. All necessary telephone line charges for support will be paid by the customer.

Training: The three days of training quoted is for a class size of three (3) participants. The training requires a sound understanding of Windows 95/98/NT and Arcview. If personnel to be trained on the system are not currently proficient with these systems, EmergiTech strongly recommends that they pursue training from a third party prior to the EmergiTech training. Training on ArcView can be provided by ESRI at their facility at a cost of \$700 per person for two days of training.

Note: EmergiTech's proposed project for the County does not include the following items from Addendum #1 of Wabash County's Agreement with Miller Management. We suggest that if these items are desired by the County that they be purchased from Miller Management.

- a. 500 24" x 36" black and white maps
- b. 200 8" x 11" county road reference books
- c. County Road Index
- d. Radio System Coordination
- e. Road Signs Coordination